the delivery of the insurance documents to himself the car was covered while he was driving it. Indeed if he had been driving it while it was still the property of the former owner, as for instance he had been driving it with a view to deciding whether he should buy it, it would have been covered while under his control.

And now this widow and these three young children have to face the future deprived of their husband, father and breadwinner without compensation for his loss and indeed faced with a great burden of debt by reason of the costs of these proceedings.

Things like this should not happen in a civilised society. It may be legal justice, it is not social justice.

Hitherto, in this country as elsewhere, the State has recognised to some extent the unfortunate position of victims of road accidents by the requirement of compulsory third party insurance. Experience, however, has shown that that is not enough and that there are cases like the present where by reason of legal technicalities an innocent victim fails to obtain any compensation.

I express the prophecy that sooner or later we shall have to accept the position that compensation for injuries resulting from road accidents should become the subject of some form of social insurance and should not be left to depend on the vagaries of application of the general law relating to negligence.

In the meantime, however, in the United Kingdom insurance companies have recognised the existence on their part of some sort of social duty in the matter by setting up the Motor Insurers Bureau which in cases like the present one will, subject to the fulfilment of certain simple conditions by way of safeguard, pay compensation. The time has long passed when insurance companies in this country should follow this example and I would express the view that if they are not prepared to do so voluntarily pressure should be put upon them to do so by Government.

Ismail Khan J. concurred.

Appeal allowed.

Solicitors: *Rodyk & Davidson; Chong Thutt Pitt & Co.*

TAN CHYE CHOO & ORS. v. CHONG KEW MOI

[F.C. (Thomson L.P., Ong Hock Thye F.J. and Ismail Khan J.) February 13, 1966]

[J.B. — Federal Court Civil Appeal No. 51 of 1965]

Road Traffic — Breach of statutory duty — Whether person injured by the breach entitled to bring action for damages — Motor Vehicles (Construction and Use) Rules, 1959, rr. 93 and 94.

This was an appeal against the decision ([1965] 2 M.L.J. 198) of the learned trial judge who dismissed a claim for damages arising out of injuries sustained in a road accident. The trial judge found that the immediate physical cause of the accident was a mechanical failure in the motor car which resulted in a total failure of the steering and braking systems and rendered it completely out of control. He held however that the duty imposed by rule 94 of the Motor Vehicles (Construction and Use) Rules, 1959, was a public duty and not a duty enforceable by an individual. On appeal,

Held: (1) none of the rules contained in the Motor Vehicles (Construction and Use) Rules, 1959, is one for the breach of which a person injured by the breach is entitled to damages;

(2) it had not been proved that there had been negligence in the maintenance and inspection of the motor car and therefore the appeal must be dismissed.

Cases referred to:—

(1) *Phillips* v. *Britannia Hygienic Laundry Co. Ltd.* [1923] 2 K.B. 832.

(2) *Badham* v. *Lambs* [1946] K.B. 45, 47.

(3) *Clark* v. *Brims* [1947] 1 All E.R. 242.

(4) *Monk* v. *Warbey* [1935] 1 K.B. 75.

(5) *Winter* v. *Cardiff R.D.C.* [1950] 1 All E.R. 819.

(6) *Barkway* v. *South Wales Transport* [1950] 1 All E.R. 392.

FEDERAL COURT.

Denis Murphy for the appellants.

K. E. Hilborne for the respondent.

Cur. Adv. Vult.

Thomson L.P.: This is an appeal in proceedings arising from a collision between a "Chevrolet" taxi and a "Volkswagen" motor car which occurred in good weather on the Johore-Kulai Road at about 2 p.m. on 28th January, 1962. Two of the three occupants of the "Volkswagen" were killed and the third was seriously injured and in consequence the injured man sued the owner of the "Chevrolet" and the administrators of the two deceased also sued her under section 8 of the Civil Law Ordinance, 1956, for the benefit of the respective estates.

In the event the trial judge dismissed the claims and gave judgment for the dependant and against that decision the plaintiffs have now appealed.

On the original pleadings, which were later amended, there was an allegation of negligent driving by the defendant's servant who was driving the "Chevrolet" at the time of the collision. That, however, was never very seriously pressed, indeed the driver was not joined as a defendant, and the trial judge found that the immediate physical cause of the accident was a mechanical failure in the "Chevrolet" which resulted in a total failure of the steering and braking systems and rendered it completely out of control.

That conclusion has not been seriously

attacked before us and with respect I would express the view that it is right.

The only eye witness of the accident was the driver of the "Chevrolet", for the only occupant of the "Volkswagen" to survive the accident was asleep at the time. And this witness' evidence so far as the facts of the collision went (I shall return to certain other parts of it later) was of little value. He was driving along the road and saw the "Volkswagen" approaching. Suddenly it came to his side of the road and "banged" into him. Before the collision he did not notice anything wrong with his vehicle. Now, in fairness to this man it is highly probable, judging from the damage which his vehicle sustained, that he was so shocked by the collision as to render his recollection of little value. Be that as it may the trial judge found it impossible to accept his evidence as an accurate account of what happened.

In the first place examination of the "Chevrolet" after the collision showed that there had been a rupture of the connection between the steering mechanism and the nearside front wheel which would have resulted in complete failure of the steering and braking systems. This by itself was a neutral fact in the sense that, considered in isolation, it might have occurred before the collision and been the cause of it or it might have occurred after the collision and been a result of it. There were, however, in evidence a series of police photographs and a sketch plan with measurements made by the police immediately after the collision and a survey plan prepared some time later. These showed the positions of the two vehicles immediately after the accident and they also showed a number of grooves about ¾ inch deep cut in the road surface and a tyre mark. A few days after the collision an engineer examined the grooves cut in the road surface and found them to correspond exactly with a chassis member of the "Chevrolet". On examination of the photographs and the plans in the light of the last piece of evidence, which was neither contradicted nor in any way improbable, it is clear that up to a point about 60 feet from the scene of the collision the "Chevrolet" was on its correct side of the road; that by the time it reached that point, that is 60 feet from the scene of the collision, something had happened which caused its nearside chassis member to come in contact with the road; that it then continued but bearing to the right at an angle of some 15° from the axis of the road; that it ultimately crossed the white line; and that about the time of doing so its offside front collided with the offside of the "Volkswagen" causing the latter to turn completely round and ultimately turn over on its side into the ditch where it was found practically on a level with the "Chevrolet". The only hypothesis which could account for all this is that the rupture in the steering system occurred immediately before the "Chevrolet" reached the first scratch on the road 60 feet from the scene of the collision.

At this stage it becomes necessary to consider the evidence as to the history and condition of the defendant's vehicle.

This was a "Chevrolet" 5-seater saloon car, 1958 model, and was first registered on 21st February, 1959. The engine was originally a six-cylinder petrol engine of 30.4 horse power. In November it was acquired by the present defendant, who intended to use it as a taxi, and she had it licensed accordingly. Some time previously a British Motors Corporation diesel engine of 16.9 horse power had been substituted for the original petrol engine but the defendant did not know how or by whom this had been done. She had asked a friend to find a car for her, her friend told her this was a good car and she bought it. The defendant was a woman and she entrusted the entire management of the vehicle to Yap Seng Hock, the driver at the time of the accident. He was paid a proportion of the takings and he paid for the fuel and saw to minor repairs; she paid for any other repairs and for tyres when necessary.

Yap Seng Hock, the driver, said he had been a taxi driver for over 30 years and had never previously been involved in an accident. He was the only driver of the vehicle since it was bought by the defendant. It was driven about 6,000 miles a month. He attended regularly to the lubrication and did minor repairs himself. He considered it a good car and did not notice anything wrong with it before the accident. On one occasion he took it for examination by the Government Inspector of Vehicles, which I understand is not a statutory requirement but something that is insisted on by the Road Transport Department in connection with the licensing of taxis.

I would pause here to observe that what purported to be a "Report on the Examination" by the Registrar of Vehicles at Johore was put in evidence. The registrar was not called as a witness and counsel for the plaintiffs did not admit its contents. For what it is worth, however, it is dated 4th October, 1961, and the registration book of the vehicle shows that road tax was paid at Johore on two occasions after that date.

Finally there was the evidence of two experts, one called for the plaintiffs and the other for the defendant.

The defendant's witness was a Mr. Pope and, except on one or two points of opinion, his evidence was not seriously contested.

He examined the two vehicles and the scene

of the accident about a week after it occurred. His evidence as to the scratches on the road has already been mentioned. As regards the "Chevrolet" he found that a ball and socket joint in the connection between the nearside front spring and the corresponding wheel of the vehicle had been ruptured by the ball having been forced out of the socket the sides of which showed signs of wear. This would have had the effect of depriving the driver of any control over the steering of the vehicle and it had broken the tubes conveying power to the front brakes. He then found, on taking the relevant assembly to pieces that the original spring which as installed by the makers had been securely anchored at both ends had been lengthened by having a steel ring (apparently called a "shim") inserted between its lower end and its seating. The effect of this was to allow a certain amount of movement between the spring and its seating which there would not otherwise have been and, in his view, it was this movement continuing over a long period of driving which had been responsible for the rupture in the ball and socket joint. In support of this view he quoted the following passage from the Chevrolet workshop manual referring to this spring:—

"To correct the height springs must be replaced. These springs do not have flat ends and shims should not be used."

He expressed the opinion that this alteration of the seating of the spring must have been done when the petrol engine was replaced by the diesel one. The diesel engine was shorter but heavier than the petrol one and was required "to sit back slightly" and the springs would require strengthening to prevent the tyres fouling the mudguards.

He also examined the tyres which were in "serviceable" condition. The nearside front tyre was not deflated but the offside front tyre which was almost new had burst; he found a cut in it and was of the opinion that it had burst on impact with something and in this connection it is to be observed that according to the photographs it was the offside front of the vehicle that had been in violent collision with the "Volkswagen". He agreed that if there was wear in the socket of the ball and socket joint the driver would feel a little looseness in the steering.

The plaintiff's expert was a Mr. Wong. He was not brought into the case until during the trial. He examined the ball and socket joint, which had been produced by Mr. Pope, and from his inspection of it he expressed the view that the socket showed no excessive signs of wear and that the rupture was caused not by wear and tear but by the application of force. Although he had seen Mr. Pope's report he was not invited to express any views as to the prudence of dealing with the spring as it had been dealt with or as to the probable effects of the operation in question. He fairly admitted that the ball and socket joint had clearly been lubricated.

If Wong's evidence was accepted then the rupture of the joint could have been the result of the collision and not the cause of it for there was no evidence of the "Chevrolet" having suffered any other violent impact. This coupled with Pope's evidence as to the burst tyre being probably caused also by a violent impact would result in the position that there was no evidence as to the cause of the collision and it was therefore open to the plaintiffs to found themselves on the principle of *res ipsa loquitur*. Wong's evidence, however, did not account for the scratches on the road and in the event counsel for the plaintiffs was virtually compelled to deal with the case on the basis that the physical cause of the collision was the rupture of the joint.

On this basis it was the case for the plaintiffs that the defendant, the owner of the "Chevrolet", the person in the course of whose business it was being driven at the time of the collision, was liable by reason of breaches of statutory duty and for negligence, the negligence consisting in permitting the vehicle to be used in a condition in which it was a danger to persons on the road.

As regards breach of statutory duty, the statute of which breach was alleged was rule 93 of the Motor Vehicles (Construction and Use) Rules, 1959, made under the Road Traffic Ordinance, 1958, but at the trial it was accepted apparently without formal amendment that the rule actually in question was rule 94 which reads as follows:—

"The condition of any motor vehicle used on a road and all its parts and accessories, shall at all times be such that no danger is caused or likely to be caused to any person on the vehicle or on a road."

On this aspect of the case Azmi J. came to the conclusion that the duty imposed by that rule was a public duty only and not a duty enforceable by an individual. In that he based himself on the case of *Phillips* v. *Britannia Hygienic Laundry Co. Ltd.*[1] With great respect I think he was right.

That case was very similar to the present one. The plaintiff had been injured by the defendant's lorry and the cause of the accident in which this had occurred was a defective axle on the lorry which had been negligently repaired by a firm of repairers employed by the defendant. The plaintiff sued on a breach of statutory duty by reason of an alleged breach of a regulation, very similar to our rule 94, made under section 6 of the Locomotives on Highways Act, 1896. In the event the Court of Appeal held that "it was not intended that anyone injured by a breach of a regulation made under

the Act, for which penalties were imposed, should have an action for damages, but that the duty imposed was a public duty only to be enforced by the penalty thereby imposed" (*per* Du Parcq L.J.: *Badham* v. *Lambs* [2]).

The judgments in the *Britannia Laundry* case, particularly those of Bankes L.J. and Atkin L.J. are too long for quotation and too close-knit in their reasoning to be capable of summary. It is clear, however, that in their view the test to be applied was not merely whether the regulations in question prescribed a duty to the public as a whole or only to a particular section of the public. In every case it was a question of the intention of the particular statute. But the following passage from the judgment of Atkin L.J. (at p. 842) shows some of the factors which led to the result that the regulations under the Locomotives on Highways Act, 1896, set out public duties only enforceable by penalty:—

"I have come to the conclusion that the duty they were intended to impose was not a duty enforceable by individuals injured, but a public duty only, the sole remedy for which is the remedy provided by way of a fine. They impose obligations of various kinds, some are concerned more with the maintenance of the highway than with the safety of passengers; and they are of varying degrees of importance; yet for breach of any regulation a fine not exceeding £10 is the penalty. It is not likely that the Legislature, in empowering a department to make regulations for the use and construction of motor cars, permitted the department to impose new duties in favour of individuals and new causes of action for breach of them in addition to the obligations already well provided for and regulated by the common law of those who bring vehicles upon highways. In particular it is not likely that the Legislature intended by these means to impose on the owners of vehicles an absolute obligation to have them roadworthy in all events even in the absence of negligence."

Since the decision in the *Britannia Laundry* case the Locomotives on Highway Act, 1896, has been replaced by the Road Traffic Act, 1930, which in its turn has been replaced by the Act of 1960, and the regulations made under the 1896 Act have been replaced by much greater and more complex bodies of regulations made under the later Acts. Nevertheless it is still authoritative.

In the case of *Badham* v. *Lambs, supra,* the defendant was alleged to have sold a motor car to the plaintiff the brakes of which were in such a condition that the user of the vehicle on the highway was a breach of a regulation made under section 3(1) of the Road Traffic Act, 1930, which is *in pari materia* with our rule 15. It was held that there was no action for breach of statutory duty on the ground that the case was not distinguishable from the *Britannia Laundry* case.

In the case of *Clark* v. *Brims* [3] the plaintiff relied on a breach of section 1(1) of the Road Transport Lighting Act, 1927, which requires motor vehicles to carry certain lights and which is similar to our rule 96. Morris, J. said that the duty under the section was a public duty enforceable by penalties comparable to the duties considered in the *Britannia Laundry case* and *Badham* v. *Lambs, supra,* and was not such that breach thereof afforded a cause of action for damages.

In the case of *Monk* v. *Warbey* [4] it was held that the owner of a motor car who committed a breach of section 35 of the Road Traffic Act, 1930, by permitting his car to be used by a person not insured against third party risks was liable in damages to a person injured by the negligent driving of the uninsured person. Both Greer L.J. and Maugham L.J. accepted the principles stated by Atkin L.J. in the *Britannia Laundry* but they distinguished the provisions of the Road Traffic Act relating to insurance from those of the regulations made under the Locomotives on Highways Act, 1896. Maugham L.J. said this (at p. 85):—

"First, the court has to make up its mind whether the harm sought to be remedied by the statute is one of the kind which the statute was intended to prevent; in other words, it is not sufficient to say that harm has been caused to a person and to assert that the harm is due to a breach of the statute which has resulted in injury..... The second consideration which strongly tends to support the view that this statute was not intended to preclude a civil action is that it is brought by a person pointed out on a fair construction of the Act as being one whom the Legislature desired to protect."

On that he came to the conclusion that "in this case there is nothing in the Act to show that a personal action is precluded by reason of the existence of the special remedy provided for a breach".

Finally there are *dicta* in two House of Lords cases which are very much in point.

In the case of *Winter* v. *Cardiff R.D.C.* [5] there had been a question of disregard by the defendants' servants of a regulation relating to the loading of vehicles, and Lord Porter made the following observation (at p. 821):—

"The statement of claim also contained an allegation that they had been guilty of a breach of statutory duty in that the requirements of reg. 67 of the Motor Vehicles (Construction and Use) Regulations, 1941, had not been complied with. This last contention, however, was not persisted in save as providing a standard with reference to which the requisite care to be observed could be estimated."

Then in the case of *Barkway* v. *South Wales Transport* [6] there was a question of an accident having been due to a breach of a regulation contained in the Motor Vehicles (Construction and Use) Regulations, 1941, (No: 71), Lord Normand held (at p. 400) that that regulation "gives no right of action to persons injured by the breach of it".

Returning now to our own Motor Vehicles (Construction and Use) Rules, 1959, these consist of some 138 rules which deal with a vast

number of subjects of varying degrees of importance — length, weight, brakes, windscreen wipers, lavatories, urinals, seating on public service vehicles including a provision that such seats must be comfortable, fire extinguishers, first aid equipment, marking of vehicles, loads, silencers, emission of fumes, conduct of drivers, mascots, destination indicators on public service vehicles and carrying of children. As a matter of semantics it is clear that they create several hundred offences and impose several hundred duties. Yet for any breach of any of these rules the maximum penalty is the same, it is a six weeks' imprisonment or a fine of $200 for a first offence (section 146). And there is nothing anywhere in the rules or the Ordinance which provides any means other than a criminal prosecution for their enforcement.

In the circumstances I have no hesitation in saying that none of these rules is one for the breach of which a person injured by the breach is entitled to sue for damages. As was said in *Winter* v. *Cardiff R.D.C., supra,* they may in some cases provide "a standard with reference to which the requisite care to be observed could be estimated" in considering by what standard negligence is to be assessed, but that is a different matter.

Turning now to the issue of negligence, it is clear that if I am right as to the immediate cause of the collision it was necessary for the plaintiffs to prove that there had been negligence in the maintenance and inspection of the "Chevrolet".

Here, in my view, there was no such evidence to make out the plaintiffs' case.

As regards maintenance and inspection, if there was negligence at all it was on the part of the defendant's driver, for which of course the defendant would be vicariously liable. His evidence, however, was that the vehicle was regularly serviced and lubricated and that at least once it was sent to the Road Transport Department for inspection. Moreover, the mechanical fault that led to the accident was not one that any ordinary system of inspection would have revealed. It was not something that a normal careful driver or mechanic would have noticed, as for instance a damaged tyre. It was in such a position that it could only have been discovered by taking most of the springing and steering assembly to pieces. And it is difficult to think that even the most prudent person would take such a step without at least some warning that there might be something wrong that such a step would discover. And there was no evidence that there was any such warning. The vehicle had been bought by the defendant after the diesel engine had been installed and she could not have known of the defect that had been created by the incapacity or carelessness of (to her) the anonymous mechanic who had done the work. Moreover, this type of conversion is of common occurrence and there is nothing to show that it is often done in such a way as ultimately to lead to disaster as it did in this case. Again the driver who had been driving the vehicle some 6,000 miles a month said he did not notice anything wrong with the steering and though Mr. Pope said there should have been some looseness in the steering this is something that commonly develops in old vehicles and it is unreasonable to expect a man who was driving the vehicle day after day for considerable distances to appreciate its coming. And that the weakness had developed gradually is clear even to a layman's eye from a visual examination of the parts involved.

In all the circumstances of the case I would dismiss the appeal with costs.

Ismail Khan J.: I concur.

Ong Hock Thye F.J.: I have had the advantage of reading the judgment of the Lord President and I am in entire agreement with him on the question of breach of statutory duty.

With the greatest respect, however, I have been compelled to reach a different conclusion on the question whether the accident was caused by the negligence of the defendant's driver. From the plan of the scene of accident it will be seen that the defendant's taxi had come to rest obliquely just over the middle line of the road and that along the course it had travelled there were scratch marks on the surface of the tarmac showing that the vehicle had been on its own proper side all the way. Now, I think it is reasonable to assume that, along this straight stretch of highway, the taxi must have been cruising at about 40 to 50 miles per hour, if not a little more. Even if one accepts Mr. Pope's theory at its face value, then, upon failure of the brake and steering, the momentum of the vehicle must have continued to propel it forward at a speed which could only have diminished very little by reason of the drag or friction which scratched the road surface. It is common knowledge that a moving object does not come to a dead stop except on encountering an immovable obstacle. The Volkswagen was not such an obstacle. Only an immovable obstruction or a considerably heavier vehicle, such as a fully-laden lorry meeting the taxi in head-on collision, could have stopped the taxi dead on impact. Consequently, the point of impact or collision must have been at some distance behind the path of the taxi. This by itself is the clearest evidence that the driver was telling the truth and that it was the Volkswagen which had gone over to its wrong side to come into collision with the taxi. In my opinion, therefore, negligence on the part of the defendant's driver had been negatived by

facts which are not open to dispute. On this ground also I would dismiss the appeal.

Appeal dismissed.

Solicitors: *Murphy & Dunbar; Hilborne & Co.*

UNITED INVESTMENT & FINANCE LTD. v. ABDUL RAHMAN & ANOR.

[O.C.J. (Winslow J.) February 14, 1966]

[Singapore — Suit No. 1737 of 1963]

Hire-purchase — Whether transaction a hire-purchase or a loan on security of vehicle — Moneylenders Ordinance, 1959 — Bills of Sale Ordinance (Cap. 22)

The facts as found at the trial were as follows:— The first defendant bought a motor-cycle from the Universal Service Agency of which the second defendant was the managing partner, for $1,366. The first defendant paid the sum of $341 as deposit and the balance of $1,025 was paid to the second defendant by the plaintiffs by cheque. A hire-purchase agreement was entered into between the plaintiffs and the first defendant and the second defendant signed the agreement in his personal capacity as guarantor. Although the second defendant was a director of the plaintiffs, he did not act as agent of the plaintiffs in the transaction. The plaintiffs claimed the balance of hire-rentals and delivery of the motor cycle or its value.

Held: (1) the sum of $1,025 paid to the second defendant by the plaintiffs was in substance a loan to the first defendant in discharge of the balance due by him to the second defendants for the motor cycle which he had bought on making the initial deposit with the second defendant;

(2) the plaintiffs were never the owners of the motor-cycle and must therefore fail in their action, the agreement being unenforceable as the plaintiffs were not licensed moneylenders and as the agreement had not been registered as a bill of sale.

Cases referred to:—

(1) *Trade Promotion Trust Ltd.* v. *Young* (1940), 84 Sol.J. 646.

(2) *Polsky* v. *S. and A. Services* [1951] 1 All E.R. 185.

CIVIL SUIT.

John Tan Chor-Yong for the plaintiffs.

J. Pillai for the second defendants.

Cur. Adv. Vult.

Winslow J.: The plaintiffs claim the sum of $430.40, being arrears of hire rentals due from the first defendant for 8 months commencing 2nd November, 1962 in respect of the hire to the latter of a Triumph motor-cycle No. J.B. 9581 (hereinafter referred to as "the vehicle") under a hire-purchase agreement (hereinafter referred to as "the agreement") dated 2nd June, 1962 and also ask for an order for delivery up of the vehicle or its value, and for damages for wrongful detention. The second defendant has been joined as a defendant as the guarantor of the first defendant.

The first defendant neither entered an appearance nor filed a defence although he did appear in court on the first day of the hearing, i.e. 27th July, 1965. Hearing of the case was completed on 31st January, 1966 but the first defendant was absent on that date.

The short point which I have to decide is whether the agreement is a genuine hire-purchase agreement or merely a device to provide financial accommodation in the form of a money loan disguised under the cloak of a hire-purchase agreement. If the true nature and intent of the transaction concerned is found to be a loan on the security of the vehicle then the provisions of the Moneylenders Ordinance (No. 58 of 1959) and the Bills of Sale Ordinance (Cap. 22) would have been contravened since the plaintiffs are not licensed moneylenders nor has it ever been suggested that there was any registration of the agreement as a bill of sale.

These defences have, *inter alia*, been raised by the second defendant and I now propose to analyse the evidence, in order to determine the true nature of the transaction, as follows:—

(a) The first defendant bought the vehicle which was valued at $1,366 from the Universal Service Agency (hereinafter referred to as "the agency"), of which the second defendant is the managing partner, on 2nd June, 1962 and, on the same day, paid a deposit of $341 to the agency in cash. The balance of $1,025 was furnished to the agency by the plaintiffs by cheque, a receipt for which was issued to them by the agency on 15th June, 1962.

(b) The agreement (page 2 of the agreed bundle) was also executed on 2nd June, 1962 as between the plaintiffs and the first defendant but it is not clear from the evidence whether it preceded the sale by the agency to the first defendant referred to above. It is significant that in paragraph 3 of the declaration at the foot of the hire-purchase proposal form of the same date the first defendant declared that he recognised that the supplier of the vehicle was not the agent of the plaintiffs in the proposed hire-purchase transaction.

(c) On the same day and at the foot of the agreement the second defendant, in his personal capacity, signed a guarantee form addressed to the plaintiffs for "the due and punctual payment by the hirer of all sums which may become due . . . and undertake to indemnify you against all loss and damage resulting to you from any breach by the hirer . . .".

(d) The first defendant obtained delivery of the vehicle from the agency on 2nd June, 1962 which was registered with the Registrar of Vehicles in his name on the same day although it appears from the evidence that the plaintiffs held the registration book (with the consent of the first defendant) with which they occassionally parted when road tax became due and had to be paid by him. From the evidence it would appear that, despite certain precautions taken by the plaintiffs, the registration book is no longer with them and all efforts to seize the vehicle after June, 1963, when the first defendant was 8 months in arrears of payment, have failed. No one could explain how the registration book left the plaintiffs' office.

(e) The first defendant, who was present in court on the first day, made the illuminating revelation, when he applied for an adjournment (which was refused), that he had sold the vehicle.